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## REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

The Amendment filed on October 23, 2008 in this application presents arguments explaining how the claims at issue here patentably distinguish over the disclosure in U.S. Patent No. 6,038,838 to Fontanazzi. The most recent Official Action repeats the anticipatory rejection based on the disclosure in Fontanazzi, and does not address, or even acknowledge, the distinguishing remarks discussed in the prior response.

Specifically, the discussion beginning in the middle of page 12 of the Amendment filed on October 23, 2008 refers to the Claim 11 language reciting that the first pair of work profiles is engageable by the cam followers of **two** forming flaps, and that the second pair of work profiles is engageable by the cam followers of **two** forming flaps of a second type. The Official Action apparently now takes the position that the cam portions 50a, 50b, 51a, 51b shown in Fig. 2 and Figs. 5-9 of Fontanazzi constitute first and second pairs of work profiles (though it is not clear which of the cam portions constitute the first pair of work profiles and which of the cam portions constitute the second pair of work profiles). Accepting this interpretation for purposes of discussion, in order for the cam portions 50a, 50b, 51a, 51b to correspond to the claimed work profiles, the cam portions 50a, 50b, 51a, 51b must be engageable by the cam followers of two forming flaps -- that is what Claim 11 says. However, the cam portions 50a, 50b, 51a, 51b in Fontanazzi are not engageable by the cam followers of two forming flaps.

The most recent Official Action does not address this argument in any way and does not explain how the pairs of cam portions 50a, 50b, 51a, 51b are

engageable by the cam followers of two forming flaps). Indeed, the most recent Official Action simply ignores this point. Thus, the Examiner's position is unknown.

To the extent the Examiner continues to believe the disclosure in Fontanazzi anticipates the form-and-seal unit recited in Claim 11, and the other independent claims in this application, the Examiner is kindly asked to identify with specificity the features in Fontanazzi which constitute the first pair of work profiles, the second pair of work profiles, the cam followers of the two forming flaps that engage the first pair of work profiles, and the cam followers of the two forming flaps that engage the second pair of work profiles. For example, the Examiner could provide a handwritten-annotated version of one of Fontanazzi's drawing figures identifying (e.g., with lead lines and identifying wording) the two first work profiles, the two second work profiles, the cam followers of the two forming flaps that engage the first pair of work profiles, and the cam followers of the two forming flaps that engage the second pair of work profiles. This information is requested so that applicant will understand the Examiner's position on these points and will be better able to present a more focused argument during subsequent proceedings beyond examination. Also, it is hoped that this might avoid additional shifts in the Examiner's position. In this regard, it is noted that the Examiner's position about what constitutes the first and second pairs of work profiles has shifted -- the June 23, 2008 Official Action refers to "the first pair of work profiles 78-80" and "the second pair of work profiles 50a, 51a," whereas the most recent Official Action refers to the "first and second pair of work profiles 50a, 50b, 51a, 51b."

The arguments expressed above also apply to independent Claims 15, 19 and 21. Thus, those claims are also patentably distinguishable over the disclosure in Fontanazzi for the reasons discussed above.

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The anticipatory rejection suffers from other weaknesses as well. For example, the cam portions 50a, 50b, 51a, 51b in Fontanazzi do not actually constitute work profiles as claimed. The claims in this application recite that the work profiles are engageable by the cam followers of forming flaps to control the approach movement of the forming flaps. The cam portions 50a, 50b, 51a, 51b in Fontanazzi are not engaged by cam followers of forming flaps to control the approach movement of the forming flaps. Rather, it is the cams 44, engaged by the rollers 42, that control the approach movement of the forming flaps in Fontanazzi.

The first several lines on page three of the Official Action state that Fontanazzi discloses "two cam follower rollers 52 spaced apart and carried by/mounted on each forming flap 37." This observation is simply incorrect. Each of the forming flaps 37 in Fontanazzi carries a single cam follower roller 42 which cooperates with the cam 44. The single cam follower roller 42 does not cooperate or engage the cams 50, 51.

The top half of page four of the Official Action comments that "a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments." The Official Action then goes on to state that Fontanazzi's Fig. 2 illustrates a first forming assembly 12 having a pair of half shells 37, and a second/different forming assembly 12 also having a pair of half shells 37. Once again, this is an incorrect characterization of what Fontanazzi actually discloses. Fig. 2 of Fontanazzi actually illustrates a first jaw 12 and a second jaw 12. The first jaw 12 comprises a single half shell 37 and cooperates with a first counter jaw 13 comprised of a single half shell 37. The second jaw 12 comprises a single half shell 37 and cooperates with a second counter jaw 13 comprised of a single half shell 37.

The relevance of the comments in the middle portion of page four of the Official Action is also unclear. Here, the Official Action not only refers to the disclosure in Fontanazzi, but also discusses the disclosure in U.S. Patent No. 5,001,891 to Abate. The current prior art rejection is said to be an anticipatory rejection, but the comments on page four of the Official Action seem to imply an obviousness rejection. The Examiner is kindly ask to provide clarification on this point. If the Examiner means to rely upon Abate, the rejection should so state, and the finality of the most recent Official Action should be withdrawn. Absent a change in the rejection and withdrawal of the finality of the most recent Official Action, the comments in the Official Action about Abate are considered to be nothing more than idle musings having no relevance to the issues here.

For at least the reasons set forth above, it is respectfully submitted that independent Claims 11, 15, 19 and 21, and the associated dependent claims, are allowable.

Also presented in this Amendment is new independent Claim 22. This claim defines the form-and-seal unit in terms of a combination of features, including two first forming flaps and two second forming flaps that possess different sizes and possess cam-follower rollers cooperating with the different work profiles. Fontanazzi does not disclose such a form-and-seal unit.

New dependent Claims 23 and 24 define the different distances between the rollers on the first forming flaps relative to the second forming flaps. These different distances are shown in Figs. 4 and 5 by the dimensions "d" and "D".

New Claims 22-24 are also allowable.

Early and favorable action with respect to this application is respectfully requested.

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Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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I hereby certify that this correspondence is being submitted by facsimile transmission to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, to the following facsimile number.

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